

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-2050

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

B
H

CIVIL ACTION NO. 77-2050

ROY E. CARROLL

Plaintiff-Appellant

v.

JOHN R. MANSON, Commissioner of Correction, et al

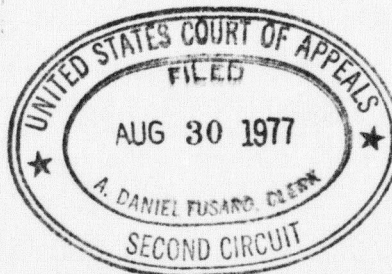
Defendants-Appellees

On Appeal from the United States District Court for the
District of Connecticut

A P P E N D I X

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Hartford, Connecticut 06115



PAGINATION AS IN ORIGINAL COPY

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Roy E Carroll
639 Courtland Ave.
Bridgeport Conn. 06605
IN PROPRIA PERSONAM

FILED
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U.S. DISTRICT COURT
BRIDGEPORT, CONN.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

Roy E Carroll
Plaintiff

AMENDED COMPLAINT

V

John R Manson, Et Al:
Defendants

Civil Action B 76-315

The Plaintiff contends that extraneous introduction of reports and testimony allowed by the State Appeals Board at the original demotion hearing on the part of the Defendants is a violation of "DUE PROCESS" and "Equal Protection Under the Law".

a. The material in question was not a part of the "reasons" cited in the demotion letter. The bulk of the Defendant evidence was such material and statements.

b. Denial of prior knowledge to the extraneous materials put the Plaintiff at a disadvantage in defending the charges. The Plaintiff was unable to call witnesses to challenge or allowed to cross-examine the authors.

c. The material being contested is completely fraudulent on the part of the Defendants. Along with being fraudulent it was hearsay and in many cases double hearsay.

d. The Plaintiff was obstructed in obtaining evidence for defense of such allegations, on the orders of Defendant Coyle.

The "DECISION ON APPEAL" also violated "DUE PROCESS" for the following reasons:

a. Although the decision clearly states the demotion was made for inefficiency only, Defendant Whitehead consistently referred to the Plaintiff as incompetent as well in his prosecution.

b. The demotion action was a disciplinary action as a result of the allegations of inefficiency. The authority should have been made under Section 14-6.113. The cited section is false, there is no Civil Service organization within the state service.

c. Page 2 para 4 is the basic complaint to the decision. It is ambiguous, generalized and fails to properly identify where and how the decision was upheld. It's lack of clarity as to which reasons or to what degree they were established, defeats opportunity for rebuttal. Charges made were specific enough to allow the Board to define their decision more accurately.

January 14, 1977
Bpt. Conn.

Roy E Carroll
Roy E Carroll

RECEIVED

JAN 19 1977

ATTORNEY GENERAL
340 CAPITAL

App. 1

ROY E. CARROLL :
Plaintiff : CIVIL ACTION
vs. : NO. B 76-315
JOHN R. MANSON, ET AL. :
Defendants : FEBRUARY 8, 1977

: : : : : : : : : : : : : :

The defendants move that the Court enter, pursuant to Rule 56 F.R.C.P., a summary judgment in their favor on Points a, b, c, and d of the first paragraph of plaintiff's amended complaint and Points a, b, and c of the second paragraph of said amended complaint, on the ground there is no genuine issue as to any material fact and that the defendants are entitled to judgment as a matter of law.

A. Plaintiff's own statements to the Court that he was given a hearing after being demoted, was represented by competent counsel at that hearing, and did not choose to pursue an appeal.

B. Letter dated January 20, 1974, from Roy E. Carroll to Myron Bernstein, submitted herewith and attached as Appendix A.

C. Letter dated January 23, 1974, to Roy E. Carroll from Gloria K. Miller, secretary to the Personnel Appeal Board, submitted herewith and attached as Appendix B.

D. Letter dated May 16, 1974, to Frank Bochniewicz from J. Daniel Sagarin, submitted herewith and attached as Appendix C.

E. Notice dated May 30, 1974, to J. Daniel Sagarin from Myron R. Bernstein, submitted herewith and attached as Appendix D.

F. Letter dated June 4, 1974, to Myron R. Bernstein from J. Daniel Sagarin, submitted herewith and attached as Appendix E.

G. The affidavit of Robert A. Whitehead submitted herewith and attached as Appendix F.

H. The demotion letter dated November 21, 1973, to which plaintiff refers in Item a of the first paragraph of his amended complaint, attached as Appendix G.

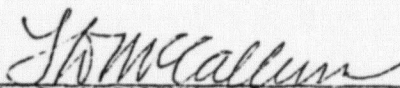
II. As to the second paragraph of the plaintiff's amended complaint, this motion is based on the following:

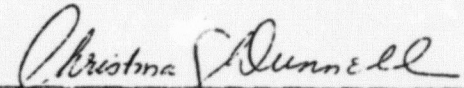
I. The decision of the Personnel Appeal Board to which plaintiff refers in Item c of the second paragraph of his amended complaint, attached as Appendix H.

DEFENDANTS, JOHN R. MANSON, ET AL.

By: CARL R. AJELLO
ATTORNEY GENERAL

BERNARD F. McGOVERN, JR.
Assistant Attorney General


L. D. McCALLUM
Assistant Attorney General
340 Capitol Avenue
Hartford, Connecticut 06115


CHRISTINA G. DUNNELL
Assistant Attorney General
P. O. Box 120
Hartford, Connecticut 06101

Service certified pursuant
to Rule 5(b) F.R.C.P.

Christina G. Dunnell
Assistant Attorney General

1
JAN 22 10 17 AM '74
Roy E. Carroll
639 Courtland Ave
Bridgeport Conn, 06605

January 20, 1974

Mr Myron Bernatein, Chairman
State Personnel Appeal Board
P.O. Box 806
Hartford Conn, 06115

Dear Mr Bernstein:

I would like to request a temporary postponement of my dention hearing scheduled for January 30th.

Your notice of the hearing dated January 16th was received by me on the 18th. The minimum date allowed to file a witness list is the 20th of January (Sunday). That is insufficient time to get my case together.

To date I have not been able to get the information as to who and what charges have been filed, I have had to apply to the courts for a subpoena to obtain it.

Very truly yours

Roy E. Carroll
Roy E. Carroll

APPENDIX A

App. 5

January 23, 1974

Mr. Roy E. Carroll
639 Courtland Avenue
Bridgeport, Connecticut 06605

Dear Mr. Carroll:

The Chairman of the Personnel Appeal Board has asked me to advise you that the postponement of your hearing, scheduled for January 30, 1974, has been granted at your request. You will be notified of a new hearing date as soon as one has been scheduled.

The Chairman of the Board has further advised me that I inform you that Personnel Appeal Board policy requires that if you prevail in your appeal, it is considered that you have waived any claim to back pay from January 30, the date the hearing was originally scheduled, to the date of your reassignment to the higher class, inasmuch as the State was prepared to go forward and the matter was postponed at your request.

Incidentally, we are most flexible with reference to the listing of witnesses and when the time between the notice and actual date is of short duration, a telephone call to Mr. Glowia with the list is sufficient for our purposes.

Sincerely,

Gloria K. Miller
Secretary to the Board

APPENDIX B

App. 6

SCHLESS & SAGARIN
ATTORNEYS AT LAW

J. DANIEL SAGARIN
AARON B. SCHLESS

MAY 20 11 32 AM '74
OFFICE OF THE
PERSONNEL
COMMISSIONER

855 MAIN STREET
PEOPLE'S SAVINGS BANK BUILDING
BRIDGEPORT, CONNECTICUT 06604

(203) 335-7316
(203) 384-1254

May 16, 1974

Mr. Frank R. Bochniewicz
Personnel Services Division
State of Connecticut
State Office Building
Hartford, Connecticut 06115

Re: Roy Carroll v. State of Conn.

Dear Mr. Bochniewicz:

The appeal hearing in the above-entitled matter has been scheduled for Wednesday, May 29, 1974 at 9:00 A.M., Room 404, State Office Building, Hartford, Connecticut.

Please have present at the hearing the following State employees:

John Manson - Commissioner of Correction
Raymond Coyle - Correctional Center
Administrator
Jose Santos - Warden
Henry Karney - Warden
Francis T. Moore, Warden

Very truly yours,

J. Daniel Sagarin
J. DANIEL SAGARIN

/blrf

5/21 REAP TO RALPH CASTELLON

APPENDIX C

App. 7

NOTICE
OF
PERSONNEL APPEAL BOARD
HEARING

May 30, 1974

TO: J. Daniel Sagarin
Schless & Sagarin
855 Main Street
People's Savings Bank Building
Bridgeport, Connecticut 06604

The Personnel Appeal Board Hearing in the matter of: Roy Carroll

will be held on Tuesday, June 11, 1974 at 9:00 a.m.

404
in Room 402, State Office Building, Hartford, Connecticut

Please attend and be prepared to present the facts in the case. If the hearing involves a grievance, Agency Heads are requested to grant time off to the aggrieved to attend. Employees or employee representatives who wish to request the appearance of State employees as witnesses must submit the names in writing to the State Personnel Commissioner's Office at least ten (10) days prior to the hearing date so the necessary arrangements can be made.

Any request for postponement must clearly state the reason for such request and must be received in writing at the State Personnel Commissioner's Office at least five (5) days prior to the scheduled hearing in order to receive consideration by the Board. Any appellant, or witness to any case, is hereby advised that they may have legal counsel present.

Myron R. Bernstein
Myron J. Bernstein
Chairman
Personnel Appeal Board

APPENDIX D

App. B

SCHLESS & SAGARIN
ATTORNEYS AT LAW

J. DANIEL SAGARIN
AARON B. SCHLESS

855 MAIN STREET
PEOPLE'S SAVINGS BANK BUILDING
BRIDGEPORT, CONNECTICUT 06604

(203) 335-7316
(203) 384-1254

June 4, 1974

Mr. Myron R. Bernstein
Chairman, Personnel Appeal Board
State Office Building
Hartford, Connecticut

Re: Roy Carroll v. State of Connecticut

Dear Mr. Bernstein:

Please have the following persons present at Hartford
on June 11, 1974 for the renewed hearing in the
above-entitled matter:

From the Bridgeport Correctional Institution, 1106
North Avenue, Bridgeport, Connecticut, the following
officers:

George Maher
R. Monk
T. Collins
J. Migliore
J. Addenbrooke

From the Correctional Institution at Montville:

Medical Officer J. Pruner
Correctional Officers Izzo,
Maholnik, Covino and
Grabowi

I would also like to have the above-mentioned officers
produce the following documents at the hearing:

1. All documents relating to the Montville incidents
referred to in the November 21, 1973 letter in-
cluding reports made simultaneously with the

APPENDIX E

App. 9

June 4, 1974
Mr. Bernstein
Page 2

occurrence of the incident or subsequent to the occurrence of the incident. Any disciplinary proceedings resulting from any of the incidents and any medical reports relating to any of the incidents.

2. All reports relating to any of the incidents allegedly occurring at the Bridgeport Correctional Institution referred to in the letter of November 21, 1973 or referred to in the testimony heretofore had in this case including reports of disciplinary proceedings for an inmate allegedly urinating in the laundry area.
3. Reports for an inmate involved in an incident arising out of the wearing of bellbottomed trousers.
4. Reports relating to Lt. Carroll's allegedly taking sides with the inmates against fellow officers.

If there are any questions in this regard, please do not hesitate to call so that we can expedite this proceeding.

Very truly yours,

J. Daniel Sagarin
J. DANIEL SAGARIN

JDS/blrf

App. 10

AFFIDAVIT

STATE OF CONNECTICUT
COUNTY OF HARTFORD

ss. Hartford

February 8, 1977

Robert A. Whitehead, of Manchester, Connecticut, being duly sworn, deposes and says:

1. I, Robert A. Whitehead, am presently and was during all the dates in question herein Chief of Employee Relations for the State of Connecticut.

2. In my capacity as Chief of Employee Relations, I present the State's case in matters before the Personnel Appeal Board.

3. I presented the State's case in the matter of the grievance filed as a result of the demotion of Lieut. Roy Carroll and was present at all times during four days of hearings on May 29, June 11, June 14, and June 25, 1974. (Notwithstanding the Board's reference to three days of hearings, there were actually four days beginning on May 29, 1974.)

4. Mr. Carroll was represented by counsel at all times during the aforementioned hearings.

5. Mr. Carroll had the opportunity to call and cross-examine witnesses.

6. The following persons testified during one or more of the days of Mr. Carroll's hearing before the Personnel Appeal Board:

Pruner
Coyle
Santos
Kearney
Moore
Grabowy
Iozzia
McDowell
Comtois
Smith

Naholnik
Dadalt
Castellon
Lewis
Collins
Maher
Monk
Miglione
Carroll

Available, but not testifying, were:

Covino
McIsaac
Goldson

APPENDIX F

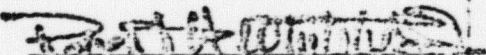
App. 11

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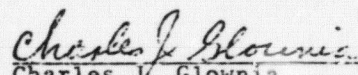
7. It is common practice for the Personnel Appeal Board to grant continuances at the request of those appearing before them. (See Appendices B and C)

8. Herbert G. Appleton, who presided at the hearing on the demotion of Lieut. Roy E. Carroll, is an attorney licensed to practice law in the State of Connecticut.

9. The appendices lettered A, B, C, D, E, G, and H are hereby certified as true copies of the documents on file in my office.


Robert A. Whitehead

Sworn to before me and subscribed in my presence this
8 day of February 1977.


Charles J. Glownia
Notary Public
MY COMMISSION EXPIRES 3-31-79

App. 12



STATE OF CONNECTICUT
DEPARTMENT OF CORRECTIONS
340 CAPITOL AVE. HARTFORD, CONNECTICUT 06106



THOMAS J. MESKILL
GOVERNOR

November 21, 1973

JOHN R. MANSON
COMMISSIONER

Lt. Roy E. Carroll
639 Courtland Avenue
Bridgeport, Connecticut 06605

Dear Lt. Carroll:

This is to notify you that you are being demoted from Correctional Lieutenant to Correction Officer for inefficiency under Section 14-6.112 of the regulations. The effective date of your demotion is December 14, 1973. You are to report to Warden Santos at the Community Correctional Center-Bridgeport for reassignment on December 14, 1973 at 8:00 A.M.

This action is taken based on your performance over an extended period of time, in a variety of assignments. In each instance, the Warden concerned felt that your performance was not that expected of a Lieutenant. In order to allow whatever opportunity existed to redirect and correct your performance, the Correctional Center Administrator went along with recommended assignment changes. You were allowed, also, to receive an annual increment in July, although ample grounds existed for rendering an unsatisfactory service rating.

It is also noted that during this period, discussions relative to deficiencies were held both at the local level and with members of the Commissioner's immediate staff. Your unwillingness or inability to accept these attempts at constructive criticism indicates that any further such actions would be futile.

Each failure, coupled with your complete inability to recognize any personal failings or change your methods of operation, have made it impossible to place you in any supervisory position in the department.

It is the opinion of the several Wardens to whom you have been assigned that you are clearly lacking in good judgement, are incapable of evaluating situations and directing appropriate actions; that you cannot follow through on assignments and are unable to gain the respect and cooperation of those persons with whom you are required to work.

Following are examples of your inefficiencies:

During the three month period you were assigned as the Record Supervisor at CCC-Bridgeport, there was difficulty with counts, time computations, document and record procedures. You were unable to supervise and coordinate the activities of others assigned to work in these areas. Your poor attitude relative to these problems forced reassignment.

APPENDIX G

App. 13

-2-

You were then assigned to the Admittance and Processing Room. You were charged with coordinating the operation of the West Wing where the A & P room is located and re-organizing and simplifying the booking process. Logistics for the West Wing which had not been a problem, became one in a fairly short period of time. You unnecessarily doubled the inmate work force without authorization, brought in a coffee-making machine from outside and installed it; again without authorization. Further, you came to the defense of the inmates in conflicts with other shifts over matters of which you had no first hand knowledge. You did make several suggestions which were approved but failed to follow through and others had to complete the projects.

At your request, you were granted permission to dispose of old clothing belonging to inmates discharged a long time before. In the process, you disposed of large quantities of clothing belonging to inmates still in custody. This resulted in a large number of lost property claims and a considerable expense to the State.

Your last assignment at Bridgeport was to establish a laundry exchange system with the Correctional Institution-Somers. Your responsibility required a high degree of coordination with the least amount of conflict. This was a level you never reached. Causes of your failure are cited as poor coordination with the Somers Institution, poor supervision of the inmates working in the laundry, breaches of security regulations and conflict with other staff members.

Your request to be assigned to a Shift Supervisor position was honored to give you another opportunity. Montville was selected to give you the benefit of working in a new environment and also the opportunity to work in a smaller center.

At Montville, after a three week orientation, you were assigned as the Second Shift Commander. Things began to fall apart necessitating transfer to the first shift to work under a Captain.

Examples of inefficiencies at Montville follow:

Your attempt to handcuff a violent inmate through the bar door of his cell. The inmate pulled in his arms and gained possession of the handcuffs, a potentially dangerous weapon. The institution's medic had to be called to administer a sedative. To compound the problem, you sent another inmate into the cell to retrieve the handcuffs.

You were informed by the Captain that a choral group was coming in to participate in the regular Protestant religious service. This service is ordinarily restricted to the Protestant population. You took it upon yourself to consider this choral group as entertainment and proceeded to permit the entire population to attend, even though there was insufficient security and control for a group this large.

App. 14

Lt. Roy E. Carroll

November 21, 1973

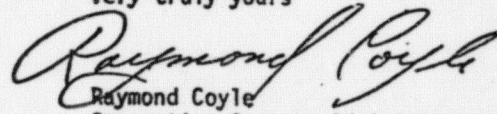
Before max security inmates are permitted out for recreation, a radio equipped vehicle and an officer with a walkie-talkie and a shotgun are placed in the yard. This vehicle is visible from inside the building and the officer in charge is required to insure that it is in place before the door is unlocked and inmates permitted to enter the yard. You unlocked the door, went out to inspect the yard while the door was left unlocked and the vehicle was not in place.

At recreation, an inmate, when hit by a bat, received a cut over his eye, requiring medical attention. Although instructions on what to do are plainly spelled out in writing, you had to seek direction from a Correction Officer rather than provide the supervision expected of a supervising officer.

We feel that every opportunity has been given to you. We have not recommended dismissal because we feel that you had been an effective Correction Officer and could be again.

You are notified that you have the right of appeal to the Personnel Appeal Board within ten days of the effective date of demotion.

Very truly yours



Raymond Coyle
Correction Centers Administrator

RC:gp

App. 15



STATE OF CONNECTICUT

PERSONNEL APPEAL BOARD

STATE OFFICE BUILDING - HARTFORD, CONNECTICUT
06115

Correction - 11

TELEPHONE
(203) 566-5253

Herbert G. Appleton
William H. Baum
Royal E. Cowles
Louis Margolis

Myron R. Bernstein
Chairman

Rev. Robert D. McGrath
Paul J. Pomerantz
William J. Sullivan
Alexander F. Zarnowski

DECISION ON APPEAL

The Personnel Appeal Board held hearings on June 11, 1974, June 14, 1974 and June 25, 1974 on the appeal of Roy Carroll, Department of Correction, from his demotion.

The Board finds the following facts not disputed:

- 1) Roy Carroll was first employed on August 9, 1968, as a Jail Guard. He was appointed Sergeant on July 25, 1969, and on August 21, 1970, was appointed Lieutenant.
- 2) He served in these capacities in the Bridgeport Correctional Center the majority of the time in service.
- 3) As a Lieutenant at Bridgeport, he was assigned at least three different specific areas of responsibility at different times.
- 4) He was subsequently transferred to the Montville Correctional Center as a Lieutenant.
- 5) He was demoted effective December 14, 1973, to the rank of Correction Officer and returned to Bridgeport. He was notified of this demotion by letter dated November 21, 1973, and signed by Raymond Coyle, Correction Centers Administrator.
- 6) This demotion was effected under Civil Service Regulation 14-6.112 which provides that an appointing authority may demote an employee with permanent status to a position of a lower grade for incompetency or inefficiency. The demotion letter only mentioned inefficiency.
- 7) The demotion letter listed eight examples of alleged inefficiencies at both Bridgeport and Montville, in addition to containing six other paragraphs relating to the situation.
- 8) He was notified of his right of appeal and proceeded with the appeal in a timely manner.

After hearing extensive testimony from a large number of witnesses, and after reviewing voluminous exhibits, the Board further finds as follows:

- 1) Mr. Carroll was demoted for inefficiency, and not for disciplinary purposes.

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DEPT. OF CORRECTION

SEP 17 1974

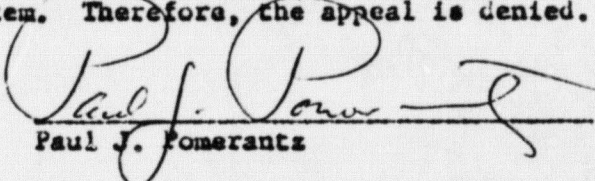
PERSONNEL SECTION

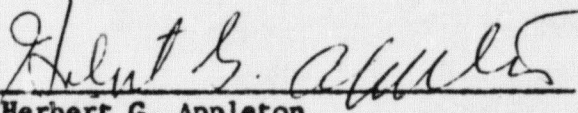
Roy Carroll
Department of Correction
(Continued)

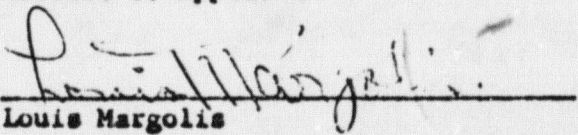
-2-

- 2) Because Mr. Carroll was demoted for inefficiency, the appointing authority must give reasons to support his actions. This requirement is substantially different than would be required for a demotion for disciplinary reasons.
- 3) Mr. Carroll was notified that he was demoted for inefficiency and reasons stated in support of this in the demotion letter which is part of the record.
- 4) While not every single reason listed in the letter of demotion was supported in toto by the testimony and exhibits, most of the reasons were supported by the testimony and exhibits in varying degrees.
- 5) These reasons covered time spent in two jails under three different wardens and, therefore, the Board rejects any claim of prejudice.
- 6) Other situations which were not specifically stated in the demotion letter involving Mr. Carroll were brought up in the course of the hearing. Mr. Carroll's counsel objected to their consideration, and this objection was overruled because the listed reasons were referred to as examples. The Board felt it was entirely proper to hear other examples which occurred during the period in question but not specifically enumerated in the letter. The Board emphasizes that if this were a disciplinary action, it would not have permitted this leeway, but would have restricted the exhibits and testimony to the acts specifically enumerated in writing.

Based on the above, and considering the fact that the position of Lieutenant is a command position having critical duties and a high level of responsibility, the Board finds that the action of the appointing authority in demoting Mr. Carroll to Correction Officer was neither arbitrary nor unreasonable and was done for the best interest of the correctional system. Therefore, the appeal is denied.


Paul J. Pomerantz


Herbert G. Appleton


Louis Margolis

DATE ISSUED

9-16-74

App. 17

LDM

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APR 7 1977

ATTORNEY GENERAL'S OFFICE
340 CAPITOL AVE. HARTF.

FILED

APR 5 4 51 PM '77

U.S. DISTRICT COURT
NEW HAVEN, CONN.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ROY E. CARROLL :
V. : CIVIL NO. B-76-315
JOHN R. MANSON, individually :
and in his official capacity :
as Commissioner, Connecticut :
Department of Corrections, :
ET AL :

RULING ON DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

Plaintiff commenced this lawsuit pro se, complaining of his demotion from Correctional Lieutenant to Correction Officer. His original complaint was dismissed, with leave to amend. At the time of the dismissal the Court stated to the plaintiff that although he may have grievances based on state law to press in a state court suit, his complaint contains only two possible federal issues. These issues, aspects of the constitutional right to be protected from deprivation of liberty or property without due process of law, are:

1. whether, at the hearing to contest plaintiff's demotion, due process was denied by the alleged introduction of evidence beyond the scope of the original notice; and
2. whether due process was denied by the failure of the hearing panel to specify with adequate particularity the reasons for the plaintiff's demotion.

App. 18

The other claims, although they may find a basis in some state statute or regulation, raise no federal right. The amended complaint reflects the Court's narrowing of the issues. Defendants' motion for summary judgment now deals with these two issues on their merits.

On November 21, 1973, the defendant Coyle sent the plaintiff a letter notifying the plaintiff of his demotion for inefficiency effective December 14, 1973. The letter gave eight examples of inefficiency over an extended period of time. It advised plaintiff of his right to appeal to the Personnel Appeals Board.

Plaintiff appealed the demotion, and a hearing date was scheduled. At plaintiff's request a postponement of the hearing date was granted. The eventual hearing dates were May 29, June 11, June 14, and June 25, 1974. Plaintiff was represented by counsel and had the opportunity to call and cross-examine witnesses. Nineteen witnesses, many of whom were called by the plaintiff, testified at the hearing, and three others were available but did not testify.

Plaintiff's challenge to the notice given him is that some of the evidence received at the hearing over his objection dealt with matters not specifically included in the eight examples of inefficiency enumerated in the letter or otherwise mentioned therein. In its decision the Personnel Appeal Board explained why it had allowed this evidence to be introduced:

App. 19

6) Other situations which were not specifically stated in the demotion letter involving Mr. Carroll were brought up in the course of the hearing. Mr. Carroll's counsel objected to their consideration, and this objection was overruled because the listed reasons were referred to as "examples." The Board felt it was entirely proper to hear other examples which occurred during the period in question but not specifically enumerated in the letter. The Board emphasizes that if this were a disciplinary action, it would not have permitted this leeway, but would have restricted the exhibits and testimony to the acts specifically enumerated in writing.

Whether or not the Board was justified under state law in making this distinction between a demotion and a disciplinary action, the federal issue is limited to whether the United States Constitution requires the hearing in a demotion case to be strictly circumscribed by the incidents mentioned in the letter of notice.

The letter of notice fairly put in issue the entire question of the plaintiff's efficiency. The eight instances listed in the letter were referred to as "examples of your inefficiencies." The Federal Constitution does not require that the state list every witness it intends to call or every document it intends to produce. A general statement of the nature of the charges suffices. The issue before the Personnel Appeal Board, as the letter of notice makes quite clear, was the general question of whether the plaintiff was inefficient. The narrower question of whether each of the eight illustrative instances actually occurred as described in the letter was only secondary to the broader question,

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clearly and fairly raised by the letter, of plaintiff's efficiency in general. The letter of notice met federal constitutional standards, and the receipt of evidence pertaining to additional examples of inefficiency not specifically enumerated in the letter violated no federal right.

Plaintiff argues that the reasons for his demotion specified in the decision of the Personnel Appeal Board are insufficient to meet the requirements of due process. Cf. Haynes v. Regan, 525 F.2d 540, 544 (2d Cir. 1975); Billiteri v. United States Board of Parole, 541 F.2d 938, 945 (2d Cir. 1976). Three of the Board's findings are relevant to his claim. They are:

- 1) Mr. Carroll was demoted for inefficiency, and not for disciplinary purposes.
- 4) While not every single reason listed in the letter of demotion was supported in toto by the testimony and exhibits, most of the reasons were supported by the testimony and exhibits in varying degrees.
- 6) [quoted at p. 3 supra].

He claims it is impossible to tell from the Board's vague and ambiguous language what exactly were the grounds for its decision, and alleges that the Board may have relied on the evidence beyond the scope of the charges in the letter of notice that was admitted over plaintiff's objection.

It is probable that the mere statement that the plaintiff was demoted for inefficiency meets whatever constitutional standard may apply for specification of reasons in the context of a personnel demotion hearing. The Court

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knows of no case where a personnel decision has been reversed by a court for failure to make a more elaborate statement of reasons. Whatever the constitutional standard may be in this nebulous area, it is unlikely that there is any constitutional requirement that the Board specifically list each incident of inefficiency found to be fully proven.

But even assuming arguendo that a fuller statement of reasons should have been given, the plaintiff is not entitled to relief. In recent public employee cases decided by the Supreme Court and the Second Circuit Court of Appeals, the rule has been that even some constitutional infirmity in the proceedings of a public employer does not entitle the plaintiff to reinstatement or damages if the Court finds that the plaintiff would have dismissed in any event on entirely valid grounds. Mt. Healthy City Board of Education v. Doyle, ^{97 S.Ct. 566, 50 L.Ed.2d 471} ___ U.S. ___, 45 U.S.L.W. 4079, 4082 (Jan. 11, 1977); Rocker v. Huntington, 550 F.2d 804 (2d Cir. Feb. 24, 1977). Under the approach taken by these cases, I find that there is no need to send the case back to the Board for a fuller statement of reasons or for a clarification of whether any of its reasons for demotion included incidents beyond the scope of those mentioned in the charging letter. It is a fair implication from the Board's Finding #4, quoted above, that it would have demoted the plaintiff for inefficiency even if the evidence had been limited to the original charges, and that whatever additional evidence it received only cumulated the finding of inefficiency.

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Accordingly, I hold that neither the letter of notice nor the statement of reasons was constitutionally defective, and further, that even if there were minor irregularities in the procedure followed by the Board, the fact that the Board would have demoted plaintiff for inefficiency in any event precludes relief. As the Supreme Court recently stated in Bishop v. Wood, ___ U.S. ___ (1976):

The federal court is not the appropriate forum in which to review the multitude of personnel decisions that are made daily by public agencies. We must accept the harsh fact that numerous individual mistakes are inevitable in the day-to-day administration of our affairs. The United States Constitution cannot feasibly be construed to require federal judicial review for every such error. . . . [W]e must presume that official action was regular and, if erroneous, can best be corrected in other ways.

Accordingly, the defendants' motion for summary judgment is granted. In view of this disposition, it is unnecessary to rule on the remaining motions submitted by both sides.

Dated at New Haven, Connecticut, this 5 day of April, 1977.

Jon O. Newman
Jon O. Newman
United States District Judge

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UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

FILED

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ROY E. CARROLL

v.

JOHN R. MANSON, individually
and in his official capacity
as Commissioner, Connecticut
Department of Corrections,
et al

CLERK
U.S. DISTRICT COURT
BRIDGEPORT, CONN.
CIVIL #B-76-319

JUDGMENT

This cause having come on for consideration on defendants' Motion
For Summary Judgment and the Court having filed its RULING ON DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT under date of April 5, 1977, granting said
motions,

It is accordingly ORDERED, ADJUDGED and DECREED that judgment be
and is hereby entered in favor of the defendants.

Dated at Bridgeport, Connecticut, this 11th day of April, 1977.

SYLVESTER A. MARKOWSKI, Clerk

By:

Vincent R. DeRosa

Vincent R. DeRosa
Deputy-in-Charge

RECEIVED

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ATTORNEY GENERAL'S OFFICE
300 CAPITOL AVE., HYFD.

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